THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION Nos.24566, 24567, 26038 and 26225 of 1999

Dated: 07-11-2006

Between:

R.C.C. (Sales) Private Ltd.

… Petitioner/s

AND

Authority under Minimum Wages Act cum
Joint Commissioner of Labour,
Andhra Pradesh, Hyderabad and others.

… Respondents

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COMMON ORDER :

The petitioners, who are the sister concerns to each other, filed these four writ petitions against the orders of the first respondent authority in M.W.Nos.17, 20, 18 and 23 of 1995, wherein delay of 777 days was condoned in initiating proceedings before the first respondent for imposing the obligation on the part of the petitioners for payment of minimum wages to the workmen of the petitioners.

Prior to passing of this order, on 7-9-1995, the first respondent passed an order, condoning the delay against which the petitioners filed Writ Petition No.20623 of 1995 and batch. This Court, by order dated 17-10-1995 allowed the batch of writ petitions and remitted the matter to the first respondent for reconsideration of the applications for condonation of delay. After the remand, the first respondent again reconsidered the matter and condoned the delay. The order passed by the first respondent was preceded by a detailed enquiry, wherein evidence of both parties was let in, in support of their rival contentions, regarding the delay.

The first respondent, in support of his order for condoning the delay, has given detailed reasons. The contention of the petitioners advanced before the first respondent that every day's delay must be

explained was repelled by the authority saying that in a matter where a beneficial piece of Legislative provision is sought to be enforced, such as payment of minimum wages, the authorities shall not adopt a pedantic approach and that the delay occurred was not due to the fault of the workmen or the fault of the officers. It was held that the officers have inspected the establishment on 25-6-1995 and have filed the claim on
17-7-1995. Reckoning from 25-6-1995, there is no delay in filing the claim.

Sri Vedula Srinivas, learned counsel for the petitioner, has graciously submitted that the findings of fact relating to the causes for delay are not amenable to judicial review under Article 226 of the Constitution of India. However, the learned counsel submitted that the first respondent, who is only a Regional Joint Commissioner, has no jurisdiction to pass the order challenged in the writ petition.

Under Section 20 of the of Minimum Wages Act, 1948
(for brevity 'the Act') the appropriate Government may, by notification in the official Gazette, appoint any Commissioner for Workmen's Compensation or any officer of the Central Government, exercising the functions as Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any officer with experience as the Judge of a Civil Court or as stipendiary Magistrate to be the authority to decide all claims arising out of payment of less than the minimum rates of wages.

It is stated in the counter filed on behalf of the third respondent on 20-12-1999 that under G.O.Ms.No.126, dated
19-8-1992, the Government appointed the Joint Commissioners as the Commissioners to exercise the power under Section 20 of the Act. Under G.O.Ms.No.1, dated 20-1-1997, the Joint Commissioners were

re-designated as Regional Joint Commissioners due to exigencies of work. According to the learned Government Pleader, by virtue of re-designation of the Regional Joint Commissioners, they are deemed to be the Commissioners and are entitled to exercise the power of Commissioners under G.O.Ms.No.126, dated 19-8-1992. I see force in the contention of the learned Government Pleader.

It is not in dispute that the Government appointed the Joint Commissioners to exercise the powers of a Commissioner under Section 20 of the Act. The Government merely re-designated some of the Joint Commissioners as Regional Joint Commissioners. Therefore, it cannot be said that a separate cadre was created requiring a separate notification, conferring on the Regional Joint Commissioners power to exercise the powers of Commissioners under Section 20 of the Act and, therefore, I am unable to accept the contention of the learned counsel for the petitioners that the orders passed by the Regional Joint Commissioner condoning the delay are without jurisdiction.

Learned counsel for the petitioners, however, brought to my notice that after condoning the delay, the matters have been transferred to the Deputy Commissioner of Labour, third respondent herein. He contends that the claims having been raised before the Joint Commissioner, it is not proper for the respondents to transfer the matters to an inferior officer, that too an officer of the cadre of Deputy Commissioner of Labour. The grievance of the learned counsel for the petitioner, in my view, is justified. In fact, under Section 20 of the Act, an officer not below the rank of Commissioner can be appointed to exercise the powers of a Commissioner. Assuming that the Regional Joint Commissioner is also a Commissioner, it cannot be said that a Deputy Commissioner, who is an officer below the rank of the

Commissioner, can exercise the powers of a Commissioner.

Therefore, I am inclined to interfere in the matter only to the extent of transfer of the claims to the Deputy Commissioner, the third respondent herein. The transfer is, therefore set aside and it is directed that all the proceedings relating to the claims put-forth on behalf of the fifth respondent herein shall be restored to the Regional Joint Commissioner of Labour, Andhra Pradesh, Hyderabad, first respondent herein, and he shall decide the main claims as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

Subject to above observations, the writ petitions are disposed of. No order as to costs.

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C.V.NAGARJUNA REDDY, J

07-11-2006
ES/Msr.

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(Msr)